DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

FORM APPROVED
OMB NO. 0938-0193

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: HEALTH CARE FINANCING ADMINISTRATION	1. TRANSMITTAL NUMBER: **04-24**	2. STATE **New York**
	3. PROGRAM IDENTIFICATION: **TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)**	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE **April 1, 2004**	

5. TYPE OF PLAN MATERIAL *(Check One)*:

☐ NEW STATE PLAN ☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN ☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT *(Separate Transmittal for each amendment)*

6. FEDERAL STATUTE/REGULATION CITATION: **§1902(a) of the Social Security Act (42 USC 1396a(a)) and Title 42 CFR, Part 447, Subpart C**	7. FEDERAL BUDGET IMPACT: a. **10/01/03 – 09/30/04** **$51,700,000** b. **10/01/04 – 09/30/05** **$149,670,000**
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: **Attachment 4.19-D, Part I, Pages 47(a), 47(a)(1), 47(b), 47(x)(2)(b), 88(d), and 110 (E)(1)**	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*: **Attachment 4.19-D, Part I, Pages 47(a), 47(a)(1), 47(b), 47(x)(2)(b), and 110 (E)(1)**

10. SUBJECT OF AMENDMENT:
Long-Term Care Facility Services

11. GOVERNOR'S REVIEW *(Check One)*:

☒ GOVERNOR'S OFFICE REPORTED NO COMMENT
☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL
☐ OTHER, AS SPECIFIED:

12. SIGNATURE OF STATE AGENCY OFFICIAL: Kathryn Kuhmerker	16. RETURN TO: **New York State Department of Health** **Office of Medicaid Management** **Corning Tower - Empire State Plaza** **Room 1466** **Albany, New York 12237**
13. TYPED NAME: **Kathryn Kuhmerker**	
14. TITLE: **Office of the Deputy Commissioner** **Department of Health**	
15. DATE SUBMITTED: **Originally Submitted: 6/30/04**, Re-submitted 9/20/04	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED: JUL 30 2004	18. DATE APPROVED: SEP 28 2004

PLAN APPROVED – ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL: APR - 1 2004	20. SIGNATURE OF REGIONAL OFFICIAL:
21. TYPED NAME: CARMEN KELLER	22. TITLE: DD Deputy Director, CMSO

23. REMARKS:

FORM HCFA-179 (07-92)

(c) For residential health care facilities possessing a valid operating certificate for 300 or more beds, the Department of Health shall, in establishing the allowable indirect component of residential health care facility (RHCF) rates of payment for services provided for the period April 1, 2004 through March 31, 2005, utilize 25 percent of the indirect peer group prices for RHCFs with less than 300 beds and 75 percent of the indirect peer group prices for RHCFs with 300 or more beds; for the period April 1, 2005 through March 31, 2006, 50 percent of the indirect peer group prices for RHCFs with less than 300 beds and 50 percent of the indirect peer group prices for RHCFs with 300 or more beds; for the period April 1, 2006 through March 31, 2007, 75 percent of the indirect peer group prices for RHCFs with less than 300 beds and 25 percent of the indirect peer group prices for RHCFs with 300 or more beds; and for the period beginning April 1, 2007 and thereafter, the indirect peer group prices for RHCFs with less than 300 beds in lieu of the indirect peer group prices for RHCFs with 300 or more beds.

(ii) Affiliation:

(a) free-standing;
(b) hospital-based.
(c) For services provided beginning April 1, 2004 and thereafter, for hospital-based residential health care facilities, the Department of Health shall utilize the free-standing residential health care facility indirect peer group prices in lieu of the hospital-based RHCF indirect peer group prices in establishing the allowable indirect component of RHCF rates of payment, provided however, that for such services provided beginning April 1, 2004 and thereafter, a separate statewide average of total reimbursable base year administrative and fiscal services costs shall be determined for hospital-based RHCFs and the reimbursable base year administrative and fiscal services costs of such facilities shall not exceed such separate statewide average. In no event shall the calculation of such separate statewide average result in a change in the statewide average determined pursuant to the New York State Public Health Law for all RHCFs.

(iii) Case mix index:

(a) high intensity, case mix index greater than .83;
(b) low intensity, case mix index less than or equal to .83.

(3) If any peer group contains fewer than five facilities, those facilities shall be included in a peer group of a similar type.

(4) For each of the peer groups, the indirect component of the rate shall be determined as follows:

(i) A mean indirect price per day shall be computed as follows:

(a) Reported allowable costs for the indirect cost centers for each facility in the peer group, after first deducting capital costs and allowable items not subject to trending shall be adjusted by applying the Regional Indirect Input Price Adjustment Factor ("RIIPAF"), as determined pursuant to paragraph (6) of this subdivision.

(1) The regional direct input price adjustment factor (RDIPAF) as contained in subparagraphs (c)(4)(iv) and (vii) of this section, the regional indirect input price adjustment factor (RIIPAF), as contained in subparagraph (d)(4)(vi) and paragraph (d)(5) of this section and the regional input price adjustment factor as contained in subparagraph (iv) of paragraph (4) of subdivision (e) of this section, hereinafter referred to as factors shall, be based on the regional average dollar per hour (RAP) calculated using the financial and statistical data required by §86-2.2 of this Subpart, reported solely for 1983 calendar year operations, adjusted as follows:

(i) RAP's shall be adjusted for the variation in wage and fringe benefit costs for each region relative to such variation for all other regions through the use of a variable corridor.

(ii) The measurement of the region's variation shall be accomplished by means of the statistical measure of variation, the coefficient of variation, in wage and fringe benefit costs.

(iii) The region with the smallest variation shall receive no corridor. The region with the highest variation shall receive a corridor no greater than a maximum percentage such that the average corridor for all regions in the State shall be approximately plus or minus 10 percent.

(iv) For rate years beginning on or after January 1, 1991, for those regions of the state described in Appendix 13-A, infra, whose Regional Average Dollar Per Hour (RAP), calculated using the financial and statistical data required by §86-2.2 of this Subpart reported solely for 1987 calendar year operations (1987 RAP) expressed as a percentage of the Statewide RAP for such year in greater than the percentage calculated using the same data reported for 1983 calendar year operations, (1983 RAP), the factors shall be determined utilizing 1987 RAPs and adjusted pursuant to subparagraph (i), (ii) and (iii) of this paragraph.

(a) Notwithstanding this subparagraph if the utilization of 1987 RAPS to determine the factors would, for any facility within a region described in this sub-paragraph, result in less reimbursement than the continued utilization of the 1983 RAPS to determine the factors, the factors utilized for such facility shall continue to be based on 1983 calendar year data.

(v) For purposes of establishing rates of payment by governmental agencies for residential health care facilities for services provided on and after January 1, 1998, the regional direct and indirect input price adjustment factors to be applied to any such facility's rate calculation shall be based upon the utilization of either 1983, 1987 or 1993 calendar year financial and statistical data. The determination of which calendar year's data to utilize shall be based upon a methodology that ensures that the particular year chosen by each facility results in a factor that yields no less reimbursement to the facility than would result from the use of either of the other two years' data. Such methodology shall utilize the 1983 and 1987 regional direct and indirect input price adjustment factor corridor percentages in existence on January 1, 1997 as well as 1993 regional direct and indirect input price adjustment factor corridor percentage calculated in the same manner as the 1983 and 1987 direct and indirect input price adjustment factor corridor percentages in existence on January 1, 1997.

(vi) For purposes of establishing rates of payment for residential health care facilities for services provided on and after April 1, 2004, the regional direct and indirect input price adjustment factors to be applied to any such facility's rate calculation shall be based upon the utilization of either 1983, 1987, 1993 or 2001 calendar year financial and statistical data provided, however, the total amount of rate increases attributable to the utilization of 2001 calendar year data shall be no more than $47.5 million on a pro rata basis per calendar year. The determination of which calendar year's data to utilize shall be based upon a methodology that ensures that the particular year chosen by each facility results in a factor that yields no less reimbursement to the facility than would result from the use of the other three years' data. Such methodology shall utilize the 1983 and 1987 regional direct and indirect input price adjustment factor corridor percentages in existence on January 1, 1997, as well as the 1993 regional direct and indirect input price adjustment factor corridor percentage in existence on January 1, 2004, as well as a 2001 regional direct and indirect input price adjustment factor corridor percentage calculated in the same manner as the 1993 direct and indirect input price adjustment factor corridor percentage in existence on January 1, 2004.

(2) The corridor established in paragraph (1) of this subdivision shall be applied in each region as follows:

(i) The regional corridor percentage referred to in subparagraph (iii) of paragraph (1) of this subdivision, shall be applied, both negatively and positively to the RAP to arrive at an amount which when added to or subtracted from the RAP shall represent the maximum and minimum regional dollar per hour, for the region hereafter referred to as the maximum and minimum respectively.

(ii) The facility in each region with the highest facility wage and fringe benefit dollar per hour shall be assigned a facility RAP equivalent to the maximum.

(iii) The facility in each region with the lowest facility wage and fringe benefit dollar per hour shall be assigned a facility RAP equivalent to the minimum.

(iv) Facilities in a region with facility wage and fringe benefit dollars per hour between the highest and lowest facility wage and fringe benefit dollar per hour in such region shall be assigned a facility RAP on a sliding scale, based on the relativity of such facility's labor costs to the RAP and to the highest or lowest labor costs in the region, as applicable.

(4) Each residential health care facility established under the New York State Nursing Home Companies Law and designated as an acquired immune deficiency syndrome (AIDS) facility or having a discrete AIDS unit approved by the Commissioner of Health shall refinance its capital mortgage on or before August 1, 2004 or 120 days immediately after the effective date of the authorizing legislation, whichever is later, and shall forward the results of such refinancing to the Commissioner of Health; provided however, no such residential health care facility shall be required to refinance its capital mortgage if the Department of Health, in consultation with the Dormitory Authority of the State of New York, determines that such refinancing could not be accomplished on an economic basis or is otherwise not feasible. Notwithstanding any inconsistent provision of law or regulation to the contrary, in the event that any such residential health care facility does not refinance its capital mortgage and the Department of Health has not made a determination that a refinancing was not economic or feasible, then the capital cost component of rates of payment determined pursuant to Article 28 of the New York State Public Health Law for such facilities beginning August 1, 2004 or 120 days immediately after the effective date of the authorizing legislation, whichever is later, shall reflect the capital interest cost equivalent to the lower of: (i) the prevailing market borrowing rates available for refinancing capital mortgages for their remaining term on or about August 1, 2004 or 120 days immediately after the effective date of the authorizing legislation, whichever is later; or (ii) the existing rate being paid by the facility on its capital mortgage or mortgages as of such date. The Commissioner of Health shall determine, in consultation with the Dormitory Authority of the State of New York, the prevailing market borrowing rates available to residential health care facilities to refinance capital mortgages.

New York
47(x)(2)(b)

Attachment 4.19-D
Part 1
(04/04)

For the period April 1, 1997 through March 31, 1999, proportionate share payments in an annual aggregate amount of $631.1 million shall be made under the medical assistance program to non-state public operated residential health care facilities, excluding public residential health care facilities operated by a town or city within a county. For the period April 1, 1999 through March 31, 2000, proportionate share payments in an annual aggregate amount of $982 million shall be made under the medical assistance program to non-state operated public residential health care facilities, excluding public residential health care facilities operated by a town or city within a county. For annual state fiscal year periods commencing April 1, 2000[,] and ending March 31, 2005, proportionate share payments in an annual aggregate amount of up to $991.5 million shall be made under the medical assistance program to non-state operated public residential health care facilities, excluding public residential health care facilities operated by a town or city within a county.

The amount allocated to each eligible public residential health care facility for the period April 1, 1997 through March 31, 1998 shall be calculated as the result of $631.1 million multiplied by the ratio of their 1995 Medicaid days relative to the sum of 1995 Medicaid days for all eligible public residential health care facilities. The amount allocated to each eligible public residential health care facility for the period April 1, 1998 through March 31, 1999 shall be calculated as the result of $631.1 million multiplied by the ratio of their 1996 Medicaid days relative to the sum of 1996 Medicaid days for all eligible public residential health care facilities. The amount allocated to each public residential health care facility for the period April 1, 1999 through March 31, 2000 shall be calculated as the result of $982 million multiplied by the ratio of their 1997 Medicaid days relative to the sum of 1997 Medicaid days for all eligible public residential health care facilities. The amount allocated to each public residential health care facility for annual state fiscal year periods commencing April 1, 2000 and ending March 31, 2005, shall be calculated as the result of up to $991.5 million multiplied by the ratio of their Medicaid days relative to the sum of Medicaid days for all eligible public residential health care facilities for the calendar year period two years prior. The payments are made contingent upon receipt of all approvals required by federal law or regulation.

Payments shall be made as a lump sum payment to each eligible residential health care facility.

TN: #04-24 **Approval Date:** SEP 28 2004

Supersedes TN: _____ **Effective Date:** APR - 1 2004

New York
110(E)(1)

Attachment 4.19-D
Part 1
(04/04)

Effective January 1, 1997, the rates of payment will be adjusted to allow costs associated with a total State assessment of 5% of facility gross revenues which shall be a reimbursable cost to be included in calculating rates of payment. Effective March 1, 1997, the reimbursable assessment will be 3.1%. Effective April 1, 1997, the total reimbursable state assessment to be included in calculating rates of payment will be 4.8%. Effective April 1, 1999 through December 31, 1999, the total reimbursable state assessment of 2.4% of gross revenues as paid by facilities shall be included in calculating rates of payment. Effective April 1, 2002 through March 31, 2003 and April 1, 2003 through March 31, [2004] 2006 [and April 1, 2004 through March 31, 2005] the total reimbursable state assessment on each residential health care facility's gross receipts received from all patient care services and other operating income on a cash basis for hospital or health-related services, including adult day service, but excluding, effective October 1, 2002, gross receipts attributable to payments received pursuant to Title XVIII of the federal Social Security Act (Medicare), shall be six percent[,] and five percent, [and two and one-half percent,] respectively. Such reimbursable assessment shall expire and be of no further effect for all such gross receipts received on or after April 1, 2006.

The reimbursable operating costs of facilities for purposes of calculating the reimbursement rates will be increased prospectively, beginning July 1, 1992, to reflect an estimate of the provider cost for the assessment for the period, provided, however, that effective October 1, 2002 the adjustment to rates of payment made pursuant to this paragraph shall be calculated on a per diem basis and based on total reported patient days of care minus reported days attributable to Title XVIII of the federal social security act (Medicare) units of service. As soon as practicable after the assessment period, an adjustment will be made to RHCF rates of payments applicable within the assessment period, based on a reconciliation of actual assessment payments to estimated payments.[1]

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[1]The extent to which a facility is reimbursed for the additional cost of the assessment is dependent upon Medicaid volume of services.

TN #04-24 **Approval Date** SEP 28 2004

Supercedes TN _____ **Effective Date** APR - 1 2004